

AMENDED IN ASSEMBLY APRIL 11, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1594

Introduced by Assembly Member Blakeslee

February 23, 2007

An act to amend Sections ~~35021.1~~ 44244, 44246, and 44932 of the Education Code, *and to amend Section 11522 of the Government Code*, relating to school personnel.

LEGISLATIVE COUNSEL'S DIGEST

AB 1594, as amended, Blakeslee. School ~~personnel: volunteers:~~ teachers: grounds for ~~dismissal:~~ *dismissal: administrative hearings.*

~~(1) Existing law authorizes a school district to permit any person, except a person required to register as a sex offender, to supervise pupils during the school lunch, breakfast or nutrition period or to serve as a nonteaching volunteer aide and authorizes a school district or county office of education to request that a local law enforcement agency conduct an automated records check of a prospective nonteaching volunteer aide in order to ascertain whether the prospective nonteaching volunteer aide has been convicted of any sex offense as defined.~~

~~This bill would require a school district and county office of education to verify that a school volunteer is not a person required to register as a sex offender by checking the Internet Web site that the Department of Justice is required to maintain for purposes of informing the public about the identity of persons required to register as sex offenders.~~

~~(2) Existing~~

~~Existing law prohibits a permanent employee from being dismissed except for one or more of certain enumerated causes, one of which is immoral or unprofessional conduct.~~

This bill would include writing a sexually suggestive or romantic communication to a pupil as unprofessional conduct for which the employee may be dismissed. ~~The bill also would make technical, nonsubstantive changes to those provisions.~~

Existing law requires that each allegation of an act or omission by an applicant for, or holder of, a credential for which his or her credential can be denied, suspended, or revoked be presented to the Committee of Credentials under the supervision of the Commission on Teacher Credentialing. Existing law authorizes the committee to conduct a formal review and, if it determines that probable cause for an adverse action exists, upon receipt of a request from the applicant or credential holder, to initiate an adjudicatory hearing.

This bill would require the commission and committee to prioritize formal reviews and hearings based on a violation of immoral or unprofessional conduct, as defined. This bill would also require the Attorney General's office to prioritize petitions based on based on violations of immoral or unprofessional conduct.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 35021.1 of the Education Code is~~
2 ~~amended to read:~~
3 ~~35021.1. A school district or county office of education shall~~
4 ~~check the Internet Web site that the Department of Justice is~~
5 ~~required to maintain pursuant to Section 290.46 of the Penal Code~~
6 ~~and may request that a local law enforcement agency conduct an~~
7 ~~automated records check of a prospective nonteaching volunteer~~
8 ~~aide in order to ascertain whether the prospective nonteaching~~
9 ~~volunteer aide has been convicted of any sex offense as defined~~
10 ~~in Section 44010. A plea or verdict of guilty, a finding of guilt by~~
11 ~~a court in a trial without jury, or a conviction following a plea of~~
12 ~~nolo contendere shall be deemed to be a conviction within the~~
13 ~~meaning of this section. If the local law enforcement agency agrees~~
14 ~~to provide that automated records check, the results therefrom shall~~
15 ~~be returned to the requesting district or county office of education~~
16 ~~within 72 hours of the written request. A local law enforcement~~
17 ~~agency may charge a fee to the requesting agency not to exceed~~
18 ~~the actual expense to the law enforcement agency.~~

1 *SECTION 1. Section 44244 of the Education Code is amended*
2 *to read:*

3 44244. (a) At least 30 days prior to any formal review of the
4 Committee of Credentials at which the application of an applicant
5 or credential of a holder is to be considered, the committee shall
6 notify the applicant or holder of the specific allegations of
7 misconduct that make the application or credential subject to
8 adverse action. The notification shall be in ordinary and concise
9 language and set forth the acts or omissions charged and the
10 statutes or rules violated. Supplemental allegations of misconduct
11 shall be sent to the holder or applicant at least 30 days prior to the
12 formal review. The portions of the investigation of the original or
13 supplemental allegations that constitute the basis for the allegations
14 shall be open to inspection and copying by the holder or applicant
15 and his or her attorney. The statement of the allegations shall
16 inform the applicant or holder that the allegations, if true, are
17 sufficient to cause his or her application or credential to be subject
18 to adverse action.

19 (b) (1) The formal review shall be held no later than six months
20 after the commencement of the initial review as set forth in
21 subdivision (c) of Section 44242.5. The formal review shall
22 determine either that no adverse action shall be taken or that the
23 allegations are sufficient to cause his or her application or
24 credential to be subject to adverse action.

25 (2) All testimony before the committee shall be verified under
26 penalty of perjury by oath or affirmation. The chairperson of the
27 committee may administer the oath or affirmation. The chairperson
28 may designate staff to administer the oath or affirmation for
29 statements taken during the investigation of allegations of
30 misconduct.

31 (c) Notwithstanding subdivision (b), the chairperson of the
32 commission may grant the committee an extension of time, not
33 exceeding six months, when the committee demonstrates that
34 additional time is necessary to complete its investigation or
35 determination, as described in subdivision (b).

36 (d) The recommendation of the committee shall be in writing
37 and a copy of the recommendation shall be delivered to the
38 credentialholder or applicant personally or sent to him or her by
39 certified mail within 14 days after the formal review, together with

1 specific information relative to any appeal rights to which the
2 credentialholder or applicant is entitled.

3 *(e) The committee shall give priority to conducting formal*
4 *reviews and initiating hearings for which the application of an*
5 *applicant or credential of a holder is subject to adverse action for*
6 *immoral or unprofessional conduct in violation of paragraph (1)*
7 *of subdivision (a) of Section 44932.*

8 *SEC. 2. Section 44246 of the Education Code is amended to*
9 *read:*

10 44246. (a) When a hearing is held to deny, suspend, or revoke
11 a credential, the proceeding shall be conducted in accordance with
12 Chapter 5 (commencing with Section 11500) of Part 1 of Division
13 3 of Title 2 of the Government Code, and the commission shall
14 have all the powers granted therein.

15 *(b) The commission shall give priority to hearings to consider*
16 *an adverse action to deny, suspend, or revoke a credential based*
17 *upon immoral or unprofessional conduct, as defined in paragraph*
18 *(1) of subdivision (a) of Section 44932.*

19 ~~SEC. 2.~~

20 *SEC. 3. Section 44932 of the Education Code is amended to*
21 *read:*

22 44932. (a) No permanent employee shall be dismissed except
23 for one or more of the following causes:

24 (1) Immoral or unprofessional conduct. For purposes of this
25 section, writing a sexually suggestive or romantic communication
26 to a pupil is unprofessional conduct for which an employee may
27 be dismissed.

28 (2) Commission, aiding, or advocating the commission of acts
29 of criminal syndicalism, as prohibited by Chapter 188 of the
30 Statutes of 1919, or in an amendment to that chapter.

31 (3) Dishonesty.

32 (4) Unsatisfactory performance.

33 (5) Evident unfitness for service.

34 (6) Physical or mental condition unfitting him or her to instruct
35 or associate with children.

36 (7) Persistent violation of or refusal to obey the school laws of
37 the state or reasonable regulations prescribed for the government
38 of the public schools by the State Board or by the governing board
39 of the school district employing him or her.

1 (8) Conviction of a felony or of a crime involving moral
2 turpitude.

3 (9) Violation of Section 51530 or conduct specified in Section
4 1028 of the Government Code, added by Chapter 1418 of the
5 Statutes of 1947.

6 (10) Knowing membership by the employee in the Communist
7 Party.

8 (11) Alcoholism or other drug abuse that makes the employee
9 unfit to instruct or associate with children.

10 (b) The governing board of a school district may suspend
11 without pay for a specific period of time on grounds of
12 unprofessional conduct a permanent certificated employee or, in
13 a school district with an average daily attendance of less than 250
14 pupils, a probationary employee, pursuant to the procedures
15 specified in Sections 44933, 44934, 44935, 44936, 44937, 44943,
16 and 44944. This authorization shall not apply to a school district
17 that has adopted a collective bargaining agreement pursuant to
18 subdivision (b) of Section 3543.2 of the Government Code.

19 *SEC. 4. Section 11522 of the Government Code is amended to*
20 *read:*

21 11522. (a) A person whose license has been revoked or
22 suspended may petition the agency for reinstatement or reduction
23 of penalty after a period of not less than one year has elapsed from
24 the effective date of the decision or from the date of the denial of
25 a similar petition. The agency shall give notice to the Attorney
26 General of the filing of the petition and the Attorney General and
27 the petitioner shall be afforded an opportunity to present either
28 oral or written argument before the agency itself. The agency itself
29 shall decide the petition, and the decision shall include the reasons
30 therefor, and any terms and conditions that the agency reasonably
31 deems appropriate to impose as a condition of reinstatement. This
32 section shall not apply if the statutes dealing with the particular
33 agency contain different provisions for reinstatement or reduction
34 of penalty.

35 (b) *With respect to persons whose license has been revoked or*
36 *suspended based upon a violation of Section 44932 of the*
37 *Education Code, the Attorney General's office shall give priority*

- 1 *to petitions based on immoral or unprofessional conduct, as defined*
- 2 *in paragraph (1) of subdivision (a) of that section.*

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